

APPROVED

BOARD OF DENTISTRY

MINUTES

SPECIAL CONFERENCE COMMITTEE "B" MEETING

TIME AND PLACE: Special Conference Committee "B" convened on April 27, 2007, at 9:25 a.m., at the Department of Health Professions, Richmond, Virginia.

APPROVAL OF MINUTES: Ms. Pace moved to approve the Minutes of the Special Conference Committee "B" meeting held on February 23, 2007.

FIRST CONFERENCE: 9:25 a.m.

PRESIDING: Edward P. Snyder, D.D.S.

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT: Sandra K. Reen, Executive Director
Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Gail W. Ross, Adjudication Specialist

QUORUM: All three members of the Committee were present.

**William B. Ossakow, D.D.S.
Case No. 101537** William B. Ossakow, D.D.S., appeared with counsel, Glenn H. Silver, to discuss allegations that he may have violated laws and regulations governing the practice of dentistry, in that:

1. On or about September 8, 2003, he diagnosed patient A with caries on tooth #14 and tooth #15, and prescribed an occlusal guard for the patient based on his diagnosis that her teeth showed evidence of advanced wear, which indicated teeth grinding. However, on or about July 26, 2005, a subsequent dentist examined Patient A, who found no evidence of decay in teeth #14 and #15, and found no evidence that Patient A was grinding her teeth.
2. Dr. Ossakow falsely led Patient A to believe that he was a participating provider in her insurance plan.

The Committee received Dr. Ossakow's statements and discussed the evidence in the case with him.

Closed Meeting: Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of William B. Ossakow, D.D.S. Additionally, Ms. Pace moved that Board staff, Sandra Reen, Alan Heaberlin, and Catherine Chappell, and Administrative Proceedings Division staff, Gail Ross, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene: The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision: Dr. Snyder reported that the Committee determined that a violation of the Board's statutes and regulations was not established by clear and convincing evidence, and therefore, the case is dismissed. Ms. Pace moved to adopt the decision of the Committee. The motion was seconded and passed.

SECOND CONFERENCE: 10:20 a.m.

PRESIDING: Edward P. Snyder, D.D.S.

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT: Sandra K. Reen, Executive Director
Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Gail W. Ross, Adjudication Specialist

QUORUM:

All three members of the Committee were present.

**William L. Drake, Jr., D.D.S.
Case No. 100002**

William L. Drake, Jr., D.D.S., appeared with counsel, David A. Hawkins, Esq., to discuss allegations that he may have violated laws and regulations governing the practice of dentistry, in that:

- 1(a). During his care and treatment of Patient A, from on or about February 18, 2004, through May 18, 2004, he failed to perform and/or chart a thorough periodontal evaluation, and failed to diagnose and treat the patient's periodontal disease and gingivitis.
- 1(b). He failed to diagnose an apical lesion on tooth #3 visible on the February 18, 2004 panoramic x-ray.
2. He failed to adequately document Patient A's treatment record, to include the diagnosis and treatment rendered, and his name as the provider of service. Further, on or about March 25, 2004, and on or about April 21, 2004, lab work orders were incomplete, in that his signature and address were not included on the work orders and he did not note the type and quality of material he required.

The Committee received Dr. Drake's statements and discussed the evidence in the case with him.

Closed Meeting:

Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of William L. Drake, Jr., D.D.S. Additionally, Ms. Pace moved that Board staff, Sandra Reen, Alan Heaberlin, and Catherine Chappell, and Administrative Proceedings Division staff, Gail Ross, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision:

Ms. Ross read the Findings of Fact and Conclusions of Law as adopted by the Committee as follows:

1. Dr. Drake holds a current Virginia dental license;
2. Dr. Drake violated §§ 54.1-2719(B) and 54.1-2706(9) of the Code, and 18 VAC 60-20-15(3), (7) and (8) of the Regulations, in that Dr. Drake failed to adequately document Patient A's treatment record, to include the diagnosis and his name as the provider. Further, lab work orders were incomplete, in that his signature and address were not included on the work orders and he did not note the type and quality of material he required;
3. Dr. Drake acknowledges deficiencies in recordkeeping and reported that he has taken corrective steps to include progress notes and lab order records.

Ms. Pace moved that the Committee adopt the Findings of Fact and Conclusions of Law, and that no sanctions be imposed as reported by Ms. Ross. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. Drake unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. Drake. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Committee shall be vacated.

THIRD CONFERENCE:

12:00 p.m.

PRESIDING: Edward P. Snyder, D.D.S.

MEMBERS PRESENT: Jeffrey Levin, D.D.S.
Jacqueline G. Pace, R.D.H.

STAFF PRESENT: Sandra K. Reen, Executive Director
Alan Heaberlin, Deputy Executive Director
Catherine Chappell, Administrative Staff Assistant
Leigh C. Kiczales, Adjudication Specialist

QUORUM: All three members of the Committee were present.

Alan R. Kessler, D.D.S.
Case No. 98241

Alan R. Kessler, D.D.S., appeared without counsel, to discuss allegations that he may have violated laws and regulations governing the practice of dentistry, in that:

1. On or about March 26, 2003, until on or about September 10, 2003, during his treatment of Patient A, he prepped and delivered improperly fitting crowns on teeth #3, 13, 14, 18, 19, 29 & 31, causing Patient A to suffer from a malocclusion. Attempts by Dr. Kessler to adjust the malocclusion were unsuccessful, and resulted in aggravating Patient A's pre-existing TMJ condition.
2. On or about April 21, 2003, during his initial evaluation of Patient A, Dr. Kessler failed to diagnose that tooth #19 was in need of root canal treatment ("RCT"), resulting in tooth #19 becoming abscessed on or about September 2003.
3. On or about May 19, 2003, Dr. Kessler permitted a dental assistant to shape Patient A's temporary crowns, seat them, and then file them down. Further, he failed to perform a follow-up examination or check of Patient A following treatment by the dental assistant.

The Committee received Dr. Kessler's statements and discussed the evidence in the case with him.

The Committee received statements on behalf of Dr. Kessler from Robert Walsh, Esq.

The Committee received statements from Patient A and her husband.

Closed Meeting:

Ms. Pace moved that the Committee convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Alan R. Kessler, D.D.S. Additionally, Ms. Pace moved that Board staff, Sandra Reen, Alan Heaberlin and Catherine Chappell, and Administrative Proceedings Division staff, Leigh Kiczales, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and passed.

Reconvene:

The Committee reconvened in open session pursuant to § 2.2-3712(D) of the Code.

Ms. Pace moved to certify that only matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Committee. The motion was seconded and passed.

Decision:

Ms. Kiczales read the Findings of Fact and Conclusions of Law as adopted by the Committee as follows:

1. Dr. Kessler holds a current Virginia dental license;
2. Dr. Kessler violated § 54.1-2706(5) and (11) of the Code, in that, from on or about March 26, 2003, until on or about September 10, 2003, during treatment of Patient A, Dr. Kessler prepped and delivered improperly functioning crowns on teeth #3, 13, 14, 18, 19, 29 & 31, causing Patient A to suffer from a malocclusion. Attempts by Dr. Kessler to adjust the malocclusion were unsuccessful;
3. Dr. Kessler violated § 54.1-2706(5), (9) and (11) of the Code, and 18 VAC 60-20-170(5), 18 VAC 60-20-190(9) and 18 VAC 60-20-230 of the

Regulations, in that on or about May 19, 2003, Dr. Kessler permitted a dental assistant to shape Patient A's temporary crowns, seat them and then file them down. Further, he failed to perform a follow-up examination or check of Patient A following treatment by the dental assistant.

The sanctions reported by Ms. Kiczales were that Dr. Kessler be reprimanded, assessed a \$2,000 monetary penalty, and be required to complete eight (8) continuing education hours in occlusion from an accredited dental program.

Ms. Pace moved that the Committee adopt the Findings of Fact and Conclusions of Law, and sanctions imposed as reported by Ms. Kiczales. The motion was seconded and passed.

As provided by law, this decision shall become a Final Order thirty days after service of such on Dr. Kessler unless a written request to the Board for a formal hearing on the allegations made against him is received from Dr. Kessler. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Committee shall be vacated.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 2:05 p.m.

Edward P. Snyder, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date